

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF HAWAII

3 UNITED STATES OF AMERICA,) CR 20-00068 LEK
4)
5 Plaintiff,) Honolulu, Hawaii
6 vs.) January 18, 2023
7) SENTENCING
8 (1) NICKIE MALI LUM DAVIS,)
9 Defendant.)
10 _____)

11 TRANSCRIPT OF PROCEEDINGS
12 BEFORE THE HONORABLE LESLIE E. KOBAYASHI
13 UNITED STATES DISTRICT JUDGE

14 APPEARANCES:

15 For the Government: JOHN D. KELLER
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Also Present: DARCIE ING-DODSON
Senior U.S.Probation Officer

For the Defendant: WILLIAM C. MCCORRISTON, ESQ.
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25 Proceedings recorded by machine shorthand, transcript produced
with computer-aided transcription (CAT).

1 WEDNESDAY, JANUARY 18, 2023 1:31 P.M.

2 THE COURTROOM MANAGER: Criminal No. 20-00068 LEK,
3 United States of America versus Nickie Mali Lum Davis.

4 This case has been called for a Sentencing as to Count 1
5 of the Felony Information.

6 Counsel, please make your appearances for the record.

7 MR. KELLER: John Keller on behalf of the
8 government, Your Honor, along with Sean Mulryne, Nicole
9 Lockhart, and Kenneth Sorenson.

10 THE COURT: All right. Good afternoon to all of
11 you.

12 MR. MINKIN: Good afternoon, Your Honor.

13 David Minkin, Nickie Lum Davis, and Bill McCorriston on
14 behalf of Ms. Lum Davis. For the record, Mr. Bryant's
15 currently in trial in Central District of California USDC.

16 THE COURT: All right. Good afternoon to all of
17 you. The record will reflect the presence of Ms. Lum Davis.

18 How are you today?

19 THE DEFENDANT: Hi. How are you?

20 THE COURT: Good. And the record will also reflect
21 the presence of United States Probation Officer, Ms. Dodson,
22 yeah -- Ing-Dodson. Sorry, Darcie.

23 All right. You may all be seated.

24 All right. So I did receive a copy of the unsigned
25 forfeiture order, and now on the bench there's the signed

1 forfeiture order. So all parties have signed it, I noticed. I
2 looked at it, so I understand that all are in agreement; is
3 that correct, Mr. Sorenson?

4 MR. SORENSON: I think so, yes, Your Honor.
5 Mr. Minkin and I have worked together to get that before the
6 Court today, and it's acceptable to us.

7 THE COURT: All right. You agree, Mr. Minkin?

8 MR. MINKIN: Yes, Your Honor. We worked the past
9 couple of days to get the language where everybody was
10 satisfied. Mr. Sorenson had to talk up a chain of command, but
11 that was resolved.

12 And in addition to that, we also have an agreed-upon
13 payment schedule that was signed that will not become part of
14 the record, but is signed, and Mr. Sorenson has a copy of that.

15 THE COURT: All right. So you're satisfied with
16 that, Mr. Sorenson?

17 MR. SORENSON: Yes, Your Honor, I am. Thank you.

18 THE COURT: This is the forfeiture money judgment in
19 the amount of \$3 million, correct? And then there's
20 acknowledgements of the money judgment and that it'll become a
21 final judgment as to Ms. Lum Davis on the date it's entered by
22 the court and be part of the sentence and included in the
23 judgment of conviction.

24 MR. SORENSON: Yeah, I think just to make sure we're
25 clear, there's kind of two things going on here. There's a

1 preliminary order of forfeiture with respect to the \$40,000,
2 and then there's a final order of forfeiture with respect to
3 the restitution funds and that's \$3 million.

4 So there'll be a final order of forfeiture coming once
5 we've done a publication to see if anybody else wants to claim
6 any rights to the 40,000, the ancillary hearing portion.

7 THE COURT: Well, says here, "So shall forfeit the
8 sum of 3 million, then a money judgment in the amount of 3
9 million is entered against the defendant."

10 MR. SORENSON: And that has to be part of the
11 sentencing.

12 THE COURT: Right, that has to be part of the
13 sentencing. And then you have a separate one as to the
14 forfeiture money judgment, right? In terms of --

15 MR. SORENSON: Well, there's \$40,000 that was
16 seized, and the parties have agreed that that is forfeitable as
17 well, and this is the preliminary order of forfeiture for that.

18 THE COURT: Okay. But it's the final as to the
19 money judgment, the 3,000?

20 MR. SORENSON: Yes, Your Honor.

21 THE COURT: I mean, 3 million, yeah.

22 MR. SORENSON: And if the Court needs more time with
23 the order or wants a little more explanation from us, we're
24 happy to give it.

25 THE COURT: Okay. I'm going to look at it then

1 after the hearing and then I'll assume I'll sign it, but I want
2 to take a little more time to take a look at it.

3 MR. SORENSON: Thank you.

4 MR. MINKIN: Thank you, Your Honor.

5 THE COURT: All right. Ms. Lum Davis, if you would
6 stand.

7 So we're here at your sentencing hearing. At the hearing
8 I'm going to make certain findings. I'm going to go over what
9 I believe to be the aggravating and mitigating factors in your
10 case, and then I will ask each of the attorneys to give me
11 their position, first the government on what is an appropriate
12 sentence for you, and then your attorneys will have an
13 opportunity to state that.

14 You'll have an opportunity to speak on your behalf, if
15 you wish. You don't have to and it certainly won't be held
16 against you if you don't.

17 And the whole purpose of this, in addition to the very
18 complete presentence report, is for me to gather as much
19 information as possible to determine an appropriate sentence
20 for you. And under the law an appropriate sentence is one that
21 is sufficient, but not greater than necessary, to meet the
22 goals of sentencing, which includes just punishment for the
23 offense to which you have pled guilty and been convicted of, to
24 dissuade you and others from committing that kind of harm to
25 our community, and to give you an opportunity for

1 rehabilitation. All right?

2 So let me first start by asking you if you and your
3 attorneys have had a full and fair opportunity to read, review,
4 and discuss the presentence investigation report and any
5 addendum and to file objections to that report.

6 Have you had that opportunity?

7 THE DEFENDANT: Yes, I have, Your Honor.

8 THE COURT: All right. You would agree with that,
9 Mr. Minkin?

10 MR. MINKIN: Yes, Your Honor.

11 THE COURT: All right. You may be seated.

12 Court makes the following findings:

13 That on August 31, 2020, Ms. Lum Davis pled guilty to a
14 single-count Information charging her with Count 1, aiding and
15 abetting violations of the Foreign Agents Registration Act, in
16 violation of federal law.

17 I now accept her Rule 11(c)(1)(A) plea agreement because
18 I am satisfied that the agreement adequately reflects the
19 seriousness of the actual offense behavior, and that accepting
20 the plea agreement will not undermine the statutory purposes of
21 sentencing.

22 I now place the presentence report in the record under
23 seal. If an appeal is taken, counsel will have access to all
24 of the report.

25 There are several related cases to this one including:

1 In the Eastern District of New York case number Criminal
2 18-00538MKB, Defendant 1 is Low Taek Jho;

3 In the District of Columbia case Criminal No. 18-343CKK,
4 Defendant No. 1 is George Higginbotham;

5 And then there's also a District of Columbia case
6 Criminal No. 19-00148CKK, Defendant 1 is Prakazrel Michel,
7 P-r-a-k-a-z-r-e-l Michel, Defendant No. 2 is Low Taek Jho,
8 T-a-e-k, Jho, J-h-o;

9 And the District of Columbia case Criminal
10 No. 20-00210CKK, Defendant No. 1 is Elliott Broidy.

11 There have been many letters in support and I have read
12 all of them.

13 Does the government have any remaining objections to the
14 factual findings or the application of the guidelines to the
15 facts?

16 MR. KELLER: No, Your Honor.

17 THE COURT: All right. Mr. Minkin?

18 MR. MINKIN: No, Your Honor.

19 THE COURT: All right. So there were objections
20 filed; an addendum was prepared. Given the parties' position,
21 they accept the explanation set forth in the addendum. The
22 court adopts those and adopts the factual findings in the
23 presentence report.

24 With regard to Ms. Lum Davis's offense to which she pled
25 guilty, there is no applicable guidelines;

1 There is a recommendation by probation that the
2 supervised release guideline provisions are 1 to 3 years;

3 There's no guideline for the fine;

4 And of course there's a mandatory \$100 assessment for the
5 offense.

6 So these are the factors the court sees in aggravation.
7 First, turning to the nature and circumstances of the offense,
8 for a significant period of time, at least between March 2017
9 and January 2018, you agreed to act as an agent for a foreign
10 national in exchange for millions of dollars.

11 You agreed to use your political connections to lobby the
12 administration of the president of the United States and the
13 Department of Justice to drop investigations and various
14 aspects for foreign nationals. This involved a lot of money.
15 A lot of financial gain on your part alone was \$10 million for
16 your efforts to use your influence to subvert justice.

17 This involved serious crimes for profit. The use of
18 influence harms our community's sense of fairness and access to
19 justice and is an affront to law-abiding citizens.

20 Turning to your personal characteristics, you've shown no
21 remorse or taken responsibility in this case. After pleading
22 guilty and giving testimony under oath admitting to the facts
23 underlying your offense, you have now tried to disavow any
24 responsibility and tried to blame your change of plea on your
25 former counsel in a misguided attempt to rewrite history.

1 On the other hand, there are factors in mitigation. You
2 have no prior criminal history. You have no history of
3 violence, no history of criminal -- drug addiction or abuse,
4 and no history of mental illness. So these indicate that
5 they're showing factors against recidivism.

6 In addition, you're highly educated; you have a college
7 degree. You have strong ties to the community. You have
8 family support from your husband and daughter, your parents and
9 extended family.

10 You've done fine on pretrial release. You've been
11 compliant with all of your conditions. You've done community
12 service and have connections with many high-ranking members of
13 our community as evidenced by your letters in support.

14 And although the government has not filed a motion on
15 your behalf, the court does take notice that you gave grand
16 jury testimony under oath that no doubt assisted the government
17 in some aspect and resulted in the indictment of at least one
18 individual. So those are the factors the court sees in
19 mitigation.

20 So now I'll turn to the government for their position on
21 sentencing, and in particular because there are no guidelines,
22 I know you folks are asking for a sentence of 30 months of
23 incarceration to be followed by supervised release. I'd be
24 interested in particularly addressing the nature and
25 circumstances of the offense.

1 MR. KELLER: Yes, Your Honor. Court's indulgence
2 for just a moment while I get set up.

3 THE COURT: Yes.

4 MR. KELLER: Ms. Elkington, are you able to turn on
5 the monitors to display this?

6 So, Your Honor, I do want to start with the nature and
7 circumstances of the offense. There's been very different
8 presentations of the defendant's role and of the seriousness of
9 this offense overall from the parties in this case. And I
10 think rather than -- or in addition to some limited additional
11 advocacy here, it would be helpful for the Court to see some of
12 the key evidence that highlights the offense as a whole and
13 also the defendant's role in the offense.

14 These are all exhibits that have been attached to the
15 government's sentencing memo and some excerpts from some of the
16 defendant's filings as well.

17 So as the Court noted, this offense started in earnest in
18 March of 2017 between the defendant and Elliott Broidy and Pras
19 Michel where they decided to try and sell their services to a
20 foreign national, Low Taek Jho, who was under investigation for
21 a multi-billion dollar kleptocracy embezzlement scheme from the
22 Government of Malaysia. And because he had stolen or was
23 alleged to have stolen so much money, he had assets all over
24 the world, including in the United States.

25 And so the Department of Justice was investigating him

1 and was -- had initiated forfeiture actions to seize assets
2 that they believed had been purchased with funds from -- from
3 the Government of Malaysia that had been embezzled by Mr. Low.

4 And Mr. Low was seeking someone with influence in the new
5 administration with President Trump to try and resolve the case
6 favorably, hopefully make the case go away, or at least allow
7 him access to all of his funds in the United States, his
8 assets, and to be able to travel freely back and forth to the
9 United States.

10 So grand jury Exhibit 2 from the Government's Sentencing
11 Memo, a subexhibit to Exhibit 1, this just shows from the very
12 beginning, March 3rd, Ms. Lum Davis is corresponding with Erica
13 Hilliard who is an assistant for Mr. Broidy, and the critical
14 line here is the last line, "Lastly do you have any photos of
15 Elliott with the president?"

16 So from the earliest days, it's clear that the defendant
17 understood that the whole purpose of this arrangement was to
18 emphasize Mr. Broidy's access and influence and relationship
19 with the president.

20 She gets some photos, Ms. Lum Davis. The defendant asks
21 for additional photos, something more casual. This isn't a
22 very good version of it, but gets a photo back of Mr. Broidy
23 and President Trump there to send to Mr. Low to try and
24 convince him that Mr. Broidy was someone that could actually
25 assist him in his effort to have the embezzlement

1 investigations dropped.

2 At around the same time Ms. Lum Davis is communicating
3 with Pras Michel who had access to Mr. Low, and she is again
4 touting Mr. Broidy and his access and value to the
5 administration. So she's texting Mr. Michel at the top line,
6 "Elliott Broidy, he raised the most money of any person for
7 Trump and was the Finance Chair for President George W. Bush."

8 So there's a meeting between Ms. Lum Davis and Mr. Michel
9 and Mr. Broidy. They start finalizing what their pitch is
10 going to be to Mr. Low, selling, again, Mr. Broidy's access and
11 influence with the administration.

12 And this looks misleading -- the date at the top is
13 just -- it's a different formulation. It's actually
14 March 12th, not December 3rd, 2017. You'll see in the
15 attachments that they're March. But so Mr. Broidy's wife,
16 Robin Rosenzweig, who is a lawyer -- Mr. Broidy's not a
17 lawyer -- provides these documents to Ms. Lum Davis for her
18 review. It's a draft contract between Ms. Rosenzweig's law
19 office Colfax and Jho Low, and then a consulting agreement
20 between Colfax and Ms. Lum Davis.

21 And the -- the agreement essentially calls for legal
22 services, but as the Court is aware of and as you'll see in
23 these exhibits, this was never about legal services.
24 Mr. Broidy was not a lawyer. Ms. Rosenzweig wasn't in the
25 initial meetings with Mr. Michel and Ms. Lum Davis and was --

1 Rosenzweig didn't travel to Bangkok, she didn't travel to Hong
2 Kong, she was not involved in this effort at all. It was all
3 about Mr. Broidy.

4 Ms. Lum Davis understood it, that's why she wanted the
5 photos of Mr. Broidy with the president, and yet they used
6 from, again, the very beginning pretext to try and legitimize
7 what they were doing, to try to conceal the true purpose of
8 what they were doing, and to try to cloak themselves in the
9 protections of the attorney-client privilege.

10 This is, as you said, an offense that involved a lot of
11 money. The initial draft contract called for a retainer of
12 \$8 million and a potential success fee of \$75 million.

13 This is the Consulting Services Agreement, and at the
14 bottom just on the point of trying to use a illegitimate
15 attorney-client relationship, the Consulting Services Agreement
16 also attempts to cloak the work in the attorney-client
17 privilege. And Ms. Lum Davis was -- had negotiated a
18 significant fee for her efforts in this -- in this scheme,
19 25 percent of the retainer fee and 25 percent of that
20 \$75 million success fee.

21 So the best evidence that the government has in this case
22 as to what was -- what was happening, outside of the testimony
23 from different cooperating witnesses, is an extensive text
24 message chain that spans the entire offense between Ms. Lum
25 Davis, the defendant, and Mr. Broidy, and these are some

1 excerpts from that text message chain that I think demonstrates
2 how active Ms. Lum Davis's role was in this. She was not just
3 a passive facilitator, but that she was often driving the
4 influence campaign, the potentially most harmful aspects of
5 this influence campaign.

6 So this again is early March. Ms. Lum Davis is asking
7 for photos, asking for the names of the potentially incoming
8 U.S. Attorney who had jurisdiction over the 1MDB investigation
9 into Jho Low Nathan Hackman, again asking for photos, trying to
10 set up a meeting between Mr. Broidy and Mr. Michel. "Pras" is
11 the reference there, prior to his travel that weekend to Asia,
12 so they knew that Mr. Michel was going over to meet with
13 Mr. Low to kind of sell this arrangement to Mr. Low.

14 Mr. Broidy, mid March, "Anything new on Ong?" which is an
15 unrelated individual or Pras's associate. You'll notice in
16 these text messages the defendant and Mr. Broidy consciously
17 avoid ever mentioning Jho Low by name because, again, evidence
18 of a consciousness of guilt; they know that they should not be
19 working on behalf of this foreign fugitive and they don't want
20 to be readily associated with him, and so you'll see that
21 there's never a reference to Mr. Low by name.

22 So Pras's associate, "Pras is meeting in person tomorrow
23 with the promoter," again Low.

24 Ms. Lum Davis sending an article to Mr. Broidy giving him
25 an updates about the status of the forfeiture lawsuits.

1 This is Ms. Lum Davis in April now telling Mr. Broidy,
2 "It looks good with Pras. Call me."

3 Mr. Broidy asking for updates, "Should I work on
4 reservations?" And at this point the co-conspirators are on
5 the verge of traveling to Bangkok to meet with Low in person to
6 explain to him what Mr. Broidy can do with his influence to the
7 president and to potentially attorney general to try and make
8 this embezzlement case, one of the largest kleptocracy cases
9 ever charged in the history of the Department, to make it go
10 away.

11 Again reference to "the principal" there by Mr. Broidy,
12 no reference to Jho Low. Or, that is a reference to Jho Low,
13 but not by name of course.

14 And so the co-conspirators do go to Bangkok, they meet
15 with Low this is early May. Basically May 2nd to May 6th they
16 have their meeting with Mr. Low. They reach an agreement and
17 understanding that he will pay Mr. Broidy in order to use his
18 influence to try and get the administration to drop the 1MDB
19 investigation and negotiate the fees in the millions of
20 dollars. So when they return, Ms. Lum Davis is telling
21 Mr. Broidy, "The wires are in to your wife's law firm from
22 Pras," and that there was an additional \$702,000 cashier check
23 deposited.

24 And then you also notice that for the first time after
25 this trip to meet with Mr. Low in Bangkok, Mr. Lum Davis and

1 Mr. Broidy start referencing encrypted apps. So Wickr is an
2 app that makes it virtually impossible for law enforcement to
3 access the contents of the communications. It also has a
4 feature where your messages can disappear. And so they start
5 not only not mentioning Jho Low by name, but using these
6 encrypted apps so that, again, they can disguise kind of the
7 evidence of their criminal activity.

8 This is a back and forth about incoming wires that came
9 in, so they got roughly \$3 million around May 5th. They got
10 another 3 million May 12th and then another 3 million May 25th.
11 And Ms. Lum Davis is updating Mr. Broidy on the status of the
12 payments. She says, "Baby steps, at least moving forward now."

13 Mr. Broidy says, "Hammer them for the next two wires."

14 This scheme was always about money. It wasn't about
15 patriotism, it wasn't about trying to return hostages. It was
16 always about money.

17 Shortly after that trip to Bangkok, the co-conspirators
18 returned to Hong Kong to meet with Mr. Low again, and this time
19 not only with Mr. Low, but with the Vice Minister for Public
20 Security for the People's Republic of China Sun Lijun. So they
21 travel around May 18th to Hong Kong, they are whisked into
22 China to Shenzhen to a hotel.

23 They meet with Mr. Low briefly and then meet with Sun
24 Lijun and his entourage, and Mr. Lijun tells him that China
25 wants a prominent critic of the Chinese government returned to

1 China, someone who is seeking safe haven as a -- as a -- as a
2 politically persecuted person. This individual, Guo Wengui,
3 China wants him back. They want to be able to prosecute him
4 and they are concerned, the government's concerned, because
5 he's been such an outspoken critic of the government.

6 They meet with Mr. Lijun. Mr. Broidy again sells his
7 services to Mr. Lijun: how he can influence the
8 administration, how he can help arrange for the removal of this
9 Chinese dissident.

10 And they return to the United States on May 20th. You
11 see the second to last message there Mr. Broidy says, "I'll try
12 to make this a big week for us with Jeff," referencing Jeff
13 Sessions, the Attorney General at the time, and then, of
14 course, "check Wickr."

15 Ten days later, ten days after the co-conspirators
16 return, Mr. Lijun, the Vice Minister for the People's Republic
17 of China, travels to the United States to try and meet with
18 high-level U.S. officials to get them to agree to send this
19 Chinese dissident back to China. Ms. Lum Davis and Mr. Broidy
20 were actively involved in trying to set up these meetings.

21 So you see here Ms. Lum Davis says, "Checked Wickr. All
22 clear now for meetings."

23 Mr. Broidy says, "Yes. All set."

24 Ms. Lum Davis, who is in contact with the Vice Minister
25 of China at this point, "He got his meetings reinstated."

1 Mr. Broidy says, "I'm in D.C."

2 Ms. Lum Davis again at the bottom referencing Wickr and
3 the fact that the messages disappear after an hour.

4 Ms. Lum Davis asking about a meeting with at that time
5 Secretary of Homeland Security John Kelly, a meeting between
6 Vice Minister Lijun and John Kelly, "In principal is the
7 meeting with Kelly okay? It's just a schedule issue?"

8 Mr. Broidy says, "Just a schedule issue."

9 And then Mr. Broidy says down below, "Please pass along
10 my good wishes to the vice minister," because Ms. Lum Davis is
11 the one who's in contact with the vice minister directly, "Wait
12 a little while longer."

13 Ms. Lum Davis, "Yes, I'm telling him that."

14 And then Mr. Broidy continues, "Tell him that I'm telling
15 the White House and Sessions what happened."

16 There's some back and forth about a scheduling order
17 conflict and the fact that Mr. Kelly is not going -- Secretary
18 Kelly is not going to be able to meet with the Vice Minister.

19 Ms. Lum Davis says, "Just spoke with the Vice
20 Minister" -- the third message from the bottom -- "He sounded
21 like he was crying. It's really sad."

22 Mr. Broidy says, "Terrible. What a mess. Bottom line
23 it's not our fault. Normally their ambassador would handle."
24 But this wasn't regular orders. This wasn't normal operations.
25 That's the whole point. It was a backchannel follow-up effort

1 being conducted by Mr. Broidy and Ms. Lum Davis along with
2 others, including Mr. Michel.

3 So after the failure to secure meetings for the vice
4 minister, Ms. Lum Davis pivots to the other piece that they're
5 working on which is the 1MDB investigation, the embezzlement
6 charges against Low, and trying to get that dropped, and so she
7 asks, "Any word on a date?" And that's a date for a meeting
8 that they were trying to get between then-President Trump and
9 then-prime minister of Malaysia, Najib Razak.

10 And so Ms. Lum Davis pivots from the meeting with Sun
11 Lijun regarding the deportation of this individual Guo Wengui,
12 "Let's move back to 1MDB and trying to get that dropped and
13 trying to get a meeting set up between the president of the
14 United States and the prime minister for Malaysia. Any word on
15 a date. Let's focus on the other thing. Distract and redirect
16 our client." Again, this is a business. This is trying to
17 show progress so that they can get more money out of these
18 foreign principals.

19 Again, Ms. Lum Davis relaying to Mr. Broidy what Jho Low
20 is saying, "J keeps calling for news."

21 "I will work on J and Asian country," Jho Low and
22 Malaysia."

23 Ms. Lum Davis is sending Mr. Broidy an article on Guo
24 Wengui, and Mr. Broidy saying, "It's getting nasty."

25 Ms. Lum Davis sending another article about the 1MDB

1 scandal and the embezzlement from 1MDB and telling Mr. Broidy,
2 "Call me so we can craft a message," again demonstrating that
3 she's playing an active role in the strategies that they're
4 employing and in how they are going to approach this influence
5 effort.

6 Ms. Lum Davis again relaying messages, "He'd like to
7 speak with you this evening, principal," no reference by name,
8 but a reference to Jho Low.

9 Following up with Mr. Broidy, "E, any news? Check Wickr,
10 please. Are we able to check in with him? Is rejection or
11 acceptance letter already generated?" They're talking about
12 acceptance or rejection of a visa renewal that Mr. Guo Wengui
13 was seeking, and again, China didn't want his visa to be
14 renewed because they wanted him kicked out of the country.

15 Ms. Lum Davis now saying, "You are the man. They're
16 going to give you the President's Medal of Freedom Award after
17 what you accomplished for this country." This is in reference
18 to this potential prisoner exchange between China and the
19 U.S. -- U.S. sending Guo -- or not prisoner exchange, but
20 hostage exchange -- U.S. sending Guo back to China, China
21 sending U.S. hostages back to the U.S.

22 And then Ms. Lum Davis says just two lines down, "And
23 date for M," date for Malaysia. "Don't leave that dude until
24 we do it," that dude being Reince Priebus who was then the
25 chief of staff for the president of the United States.

1 Mr. Broidy responding, "Heard from Steve," that's Steve
2 Wynn who had also close connections and relationship to the
3 President. "He reiterated to POTUS the importance of this Guo
4 issue," trying to get Guo sent back to China, again all being
5 directed by the Vice Minister of Public Security for China.
6 Separately, "RP" -- that's Reince Priebus -- texting, "He got
7 tied up but is also on top of it."

8 So these are contacts with the president himself and his
9 chief of staff, the highest levels of our government that these
10 individuals were able to accomplish not because they were
11 informed or because they had an official position or that they
12 were doing what they thought was best for the country, but
13 because they were being paid hundreds of millions of dollars
14 ultimately to serve a foreign agenda that was not in the best
15 interest of our foreign policy or our national security.

16 Ms. Lum Davis again actively pushing Mr. Broidy, "Can we
17 get proof today about revoke?" -- the revocation of Mr. Guo's
18 visa from Reince Priebus -- "Can we get proof today about
19 revoke?" telling Mr. Broidy on behalf of China that there's a
20 call scheduled between president of China, Xi Jinping, and
21 Trump and that she can ask and confirm about the package, the
22 package being Guo Wengui who China wanted sent back. "He can
23 even say he heard it from Steve Wynn," the president can even
24 say he heard it from Steve Wynn, trying to script the details
25 of a call between the president of the United States and Xi

1 Jinping. Just additional pressure, additional references to
2 high-level officials that Mr. Broidy was trying to influence up
3 to the National Security Council, McMaster -- was H.R.

4 McMaster who was the National Security Advisor at the time.

5 Ms. Lum Davis sending another article about the Prime
6 Minister Najib Razak who is facing re-election, "Let's harass
7 this dude again. It's 3 P.M.," talking about Najib Razak and
8 the president.

9 "I think we need to make a move." This is the defendant
10 again to Mr. Broidy. "Date and otherwise we're getting killed.
11 Please call because we need to strategize. I'm getting
12 inundated."

13 The messages continue. This is another reference to the
14 White House Chief of Staff Reince Priebus, "I'd like him to
15 give us the date now, and ask him for an update on the other
16 thing. We look impotent. We really need this date. It's been
17 crazy for me all day with this. He's panicking. Just ask him.
18 This F head needs to make it happen," a reference to Reince
19 Priebus. "This date is mandatory. Today we're getting
20 creamed."

21 Mr. Broidy says, "Calling Reince Priebus now. Call
22 everyone so they know you're raging mad. Call Madeleine too.
23 We need this today," Madeleine Winetraub[sic], the personal
24 assistant to President Trump.

25 Additional references to Steve Wynn, the date for the

1 meeting, additional kind of examples of Ms. Lum Davis driving
2 this activity: "Are you able to speak?"

3 "Do you have any movement on the date?"

4 "You're leaving us hanging here, it's not right."

5 "The guy didn't get to POTUS. Steve Wynn didn't get to
6 POTUS."

7 "Really need to confirm it was officially transmitted
8 back to Jho Low, the Chinese, regarding the meeting for the
9 Malaysians. At this point he says no."

10 And then finally the meeting is actually set up so they
11 get a meeting for September 12th between President Trump and
12 the prime minister for Malaysia, Najib Razak. They were told
13 September 12th was the meeting. Ms. Lum Davis said, "That's
14 the day U.N. General Assembly starts. No golf?" because they
15 were also trying to set up an informal meeting, a golf game
16 between the leaders.

17 And then the day before the meeting, the prime minister
18 for Malaysia, Najib Razak, was in D.C. and Mr. Broidy and
19 Ms. Lum Davis met with him to prep him for his meeting with the
20 president. And Ms. Lum Davis helped draft or edit a letter to
21 be sent to the president from Mr. Broidy to set the table for
22 the meeting with Najib Razak.

23 So that shows both that this was not some hypothetical
24 agreement without any teeth to it, this was not just bluster,
25 but this was the co-conspirators actively strategizing and

1 taking affirmative steps to try and actually influence the
2 president of the United States directly, his attorney general,
3 his national security council, his chief of staff, to bring
4 about results that while potentially didn't endanger American
5 lives, were -- would have been a travesty for our justice
6 system, both for the abandonment of this investigation into one
7 of the largest foreign embezzlement kleptocracy schemes ever
8 charged and sending a Chinese national back to China without
9 due process of law, without going through extradition, so that
10 he can be persecuted in China because of his critical views of
11 the Chinese government.

12 This demonstrates the seriousness of the offense. It
13 also demonstrates that the defendant did not play some backseat
14 passive role where she was just there as a facilitator. She
15 was the one driving a lot of this activity and driving the
16 strategy and the means by which this influence effort would be
17 carried out. And she wanted to be able to show results because
18 she wanted to be able to continue to obtain money from these
19 foreign sources.

20 In the defendant's sentencing papers they have emphasized
21 the defendant's cooperation and the Court referenced her
22 cooperation today and noted that the government had not made a
23 motion. And the government hasn't made a formal motion in part
24 because of what I'll talk about here in just a second, but also
25 because, as the Court noted, there are no guidelines in this

1 case and so a motion under Section 5K1.1 of the guidelines
2 wouldn't make sense because there is no applicable guideline.

3 But the government has taken into account the fact that
4 Ms. Lum Davis did plead initially and did at least appear to
5 cooperate with the government's investigation, and that has
6 influenced the government's sentencing recommendation.

7 But on the -- on the issue of cooperation, in her plea
8 agreement the defendant agrees -- this is at paragraph 8a(5) of
9 her plea agreement -- that Person B -- and that's a reference
10 to Mr. Broidy -- falsely assured her that their work would
11 consist of legal representation. She -- "It became clear to
12 the defendant that the lobbying efforts did not constitute
13 legal representation and required registration and disclosure
14 under FARA. The defendant deliberately and consciously avoided
15 revisiting FARA and willfully failing to register under FARA by
16 continuing to work on behalf of Foreign National A and PRC
17 Minister A." She admitted that under oath as part of her plea
18 agreement in this case.

19 And then in grand jury, the defendant addressed it again
20 in her testimony under oath. The question that she was asked,
21 "Did you have a concern that based on those contacts he,
22 Mr. Broidy, needed to register under FARA and publicly disclose
23 that he was working on behalf of Jho Low?"

24 And she says, "It was more that he was now in contact
25 with government officials trying to get this date for the prime

1 minister to get together with Trump, so I did ask him about it.

2 I said, 'Do you think that you should register?'"

3 "What did he say?"

4 "He said, 'No, because Jho Low's a client,'" and she
5 outlines this conversation. She says they had multiple
6 conversations about FARA in 2017 while their conduct was
7 ongoing. She says that Mr. Broidy was emphatic that he didn't
8 need to register, and if he did, then he would.

9 It rose to the level of an argument or a heated
10 discussion because she said she told him, "Don't you think you
11 should register, that you need to register?"

12 And she said that he said, "No. You got a legal opinion
13 on it."

14 Then she says that she -- she was asked, "Did you mention
15 this to Mr. Michel?"

16 And she says, "Just in terms of telling him the
17 conversation that Elliott felt he did not need to register."

18 She was asked, "But you were concerned that maybe he
19 should register?"

20 She says, "Right."

21 "Did Mr. Michel have any response?"

22 "I don't believe that Mr. Michel said anything about it.
23 I think it was something I made a comment on in one of our many
24 conversations."

25 So this is testimony in grand jury in on ongoing

1 investigation of a co-conspirator, Mr. Michel, on this issue.
2 In her -- in her pleadings in this case in direct contradiction
3 of her factual basis and her plea agreement, Ms. Lum Davis has
4 submitted that she did not believe that either she or
5 Mr. Broidy were required to register under FARA. She formed
6 this understanding based upon her discussions with Mr. Michel,
7 who assured her that his partner, then-DOJ Attorney George
8 Higginbotham, was ensuring legal compliance for their efforts,
9 as well as with Mr. Broidy who told her that he consulted with
10 legal counsel who confirmed that he was not required to
11 register under FARA.

12 She said nothing about Mr. Michel assuring her that she
13 didn't need to register in grand jury. She said -- in fact,
14 she said Mr. Michel said nothing about FARA when she raised it,
15 and her testimony was in contemplation of a prosecution that is
16 now pending against Mr. Michel.

17 She is now after not disclosing potentially exculpatory
18 information, if this is true, as to Mr. Michel in grand jury,
19 then in a self-serving effort to get out of her plea she has
20 generated potentially exculpatory information for Mr. Michel
21 and she's asking this Court to give her credit for cooperation
22 when she either lied under oath in this courtroom as a part of
23 her plea or in grand jury, or she lied in these submissions in
24 an effort to get out of her plea.

25 There are additional examples, but I think the

1 Court -- the Court understands the point on cooperation. She
2 did tell the government some things that the government has
3 been able to corroborate and confirm and the government
4 believes she was truthful as to some facts. But cooperating
5 partway in a federal investigation where federal criminal
6 charges and people's liberty is at stake is not cooperation,
7 and so any credit that she should get for cooperation should be
8 minimal here.

9 As to the defendant's contrition or acceptance of
10 responsibility, as the Court noted, she has shown none, and I
11 think that's illustrated by her efforts to distort and
12 manipulate these proceedings to try and either get her out of
13 her plea agreement to avoid responsibility and the consequences
14 of her actions, or to try and distract the Court from her
15 conduct and to gain the Court's sympathy in mitigation of her
16 conduct.

17 But this effort, this entire past year of litigation on
18 frivolous issues to delay her sentencing, to potentially try to
19 get out of her sentencing, the denial, recantation of factual
20 basis, these things don't mitigate her offense, they aggravate
21 her offense. They aggravate the fact that she -- that
22 punishment must be sufficient to address her lack of contrition
23 and acceptance of responsibility.

24 Your Honor, we're fortunate in this country that there
25 aren't very many examples of efforts to advocate on behalf of

1 foreign governments or foreign principals at the highest levels
2 of our government in exchange for millions of dollars. We
3 don't have many examples to point to and I think we should all
4 be grateful for that. I think the reason why there aren't many
5 examples to point to -- although we have highlighted some in
6 our sentencing papers, including the prosecution of
7 Mr. Manafort and the prosecution of Tongsun Park, and the
8 prosecution of Imaad Zuberi, all of whom were initially given
9 maximum sentences under the FARA statute of 60 months for their
10 conduct, conduct which is largely analogous in many ways to
11 Ms. Lum Davis and her co-conspirators' conduct in this case --
12 but there are relatively few examples because very few people
13 have the connections that the defendant and her co-conspirators
14 had in this case: direct access and connections and influence
15 with the president of the United States? with the attorney
16 general? with the White House chief of staff? Very few people
17 have that kind of access and thankfully even fewer people who
18 do have that access are willing to sell it to the highest
19 foreign bidder.

20 The potential harm to our country of having these secret
21 foreign-guided efforts to shape our foreign policy and
22 decisions in all our prosecutions in the Department of Justice
23 cases and decisions about whether people seeking asylum in
24 United States should be sent, without judicial process, back to
25 another country, these are -- these are efforts that strike at

1 the very core of our democracy. They undermine the most
2 important principles that we stand for which is due process of
3 law, even-handed administration of justice. And the defendant
4 was willing to subvert those for her own profit and she
5 profited substantially, along with her co-conspirators.

6 This conduct needs to be deterred. People are watching
7 what's happening in this case all over the country, all over
8 the world, seeing how seriously this conduct is going to be
9 treated, and there are others who are still pending prosecution
10 in this case who also are watching.

11 And so the Court should consider the need to avoid
12 unwarranted sentencing disparities with the few examples that
13 we do have that are largely analogous, and also must consider
14 the importance of the deterrent effect in -- to some -- in some
15 respect as to the defendant, but more importantly, as to the
16 community, the global community as a whole for what our justice
17 system's reaction is to this kind of conduct.

18 The government recommends a sentence of 24 to 30 months
19 as sufficient, but not greater than necessary, to address this
20 conduct. And again, that recommendation is based on, in part,
21 as a reflection of Ms. Lum Davis's guilty plea and the initial
22 cooperation in this case.

23 Thank you, Your Honor.

24 THE COURT: All right. Thank you very much.

25 Mr. Minkin, will you be arguing?

1 MR. MINKIN: Yes, Your Honor. Thank you.

2 What we have here is a situation that is unique in and of
3 itself, aiding and abetting a FARA violation.

4 Good afternoon, Judge Kobayashi. Let me start, Your
5 Honor, with what cannot be disputed. Nickie's days begin and
6 end with her daughter. She is a mother, she is a wife, she is
7 a daughter, she is a friend. This situation that she finds
8 herself in has deeply affected everyone around her and it will
9 affect them for years to come.

10 THE COURT: I agree, Mr. Minkin. I mean, every
11 person that I sentence, I understand I sentence not only them
12 to prison, but their families. Whether it's some poor kid from
13 Kalihi who's been caught up in a drug conspiracy, drug
14 trafficking, or your client who's had the benefit of tremendous
15 education, community support, family support, you know, when
16 they go to prison, their whole family goes to prison.

17 MR. MINKIN: No --

18 THE COURT: But there's not anything particularly
19 unique about that, though. I mean, my sympathy to the family
20 and her daughter in particular, but that happens in every case
21 and the court's very much aware of that.

22 MR. MINKIN: I know. And what we look at is that
23 we've entered into an agreement. We stipulated to the
24 forfeiture of \$3 million-plus. We've agreed to a payment plan
25 with the government as to how that will get paid based upon

1 what this Court does here today, and that's important because
2 that money will basically be taken out of the pocket of Ms. Lum
3 Davis and go back to the government, and that amount is a
4 little more than 3 million.

5 The government talks about 10 million on the one hand,
6 but the forfeiture only deals with 3 million, and that, I
7 think, is important.

8 I think also what we have is a situation where we have
9 the individual, Mr. Broidy, who has all of these contacts.
10 Mr. Broidy was pardoned. Mr. Manafort was pardoned. We have
11 an individual here who basically had an agreement with the
12 government, and at page 33 of that Memorandum of Plea,
13 Section 13a(2), Ms. Lum Davis had an absolute right to try to
14 challenge her plea based on a claim of ineffective assistance
15 of counsel. This is a document that was not drafted by Ms. Lum
16 Davis. This was a document drafted by the government in
17 anticipation of what, Your Honor? In anticipation of what?
18 That's the question.

19 THE COURT: Well, it's standard language that's in
20 every Memorandum of Plea Agreement that I've ever been given.
21 So I don't think it has any --

22 MR. MINKIN: No, I understand that, but --

23 THE COURT: -- particular significance in your case.

24 I'm not holding against her that she filed a motion
25 to -- about her attorney. That's certainly not going to be a

1 basis I'm going to look at in terms of aggravation or
2 mitigation. I mean, to the extent that she has not shown any
3 remorse or any responsibility for her conviction, yes, with
4 regard to that, but not that she filed a motion with regard to
5 her attorney.

6 MR. MINKIN: I would disagree with Your Honor,
7 respectfully, about remorse because we signed a payment plan,
8 we signed a stipulation for forfeiture. Those are significant
9 factors to comply with the plea agreement.

10 THE COURT: Right, but that's not a sign of remorse.

11 MR. MINKIN: The payment plan, there was no need to
12 set up a payment plan, Your Honor.

13 THE COURT: Well, that's inures to her benefit. I
14 mean, the government has the right -- she agreed in this plea
15 agreement to the forfeiture.

16 MR. MINKIN: I know. I agree.

17 THE COURT: The government didn't have to take it on
18 a payment plan.

19 MR. MINKIN: But she's making the effort to pay back
20 a certain amount of money each year that literally will save --

21 THE COURT: That she illegally benefitted from and
22 obtained as a result of her offense.

23 MR. MINKIN: As an intermediary with these other
24 individuals, and that's something -- and I have a chart and I
25 have a handout, if it will assist -- may I approach, Your

1 Honor?

2 THE COURT: You may -- well, I mean, what do you
3 want to do?

4 MR. MINKIN: I want to put this up and I've given
5 copies to the U.S. attorneys -- Assistant U.S. attorneys.

6 THE COURT: Where do you want to put it up?

7 MR. MINKIN: (Pointing.)

8 THE COURT: Oh, on the easel, okay.

9 MR. MINKIN: On the tripod, please. And give me one
10 second, please.

11 And may I hand this to the clerk? This is a smaller one
12 for --

13 THE COURT: You just have to be by a microphone.
14 You have to be by a microphone if you're going to speak.

15 Okay. All right. Thank you.

16 MR. MINKIN: Thank you, Your Honor.

17 What I've done is I've put up a chart, and if you're
18 unable to see it, I've handed out to both yourself, the
19 Assistant U.S. Attorneys, a chart that basically outlines our
20 position that the principals in this case were Elliott Broidy,
21 Steve Wynn, Pras Michel, and Jho Low. Ms. Nickie Mali Lum
22 Davis was not a principal. She's charged with aiding and
23 abetting. She was an intermediary.

24 And what happens with Elliott Broidy, his actions? He
25 spoke with President Trump about Jho Low's case. He attempted

1 to arrange meetings with top administration officials for the
2 prime minister of Malaysia as well as a Chinese government
3 official. He convinced Steve Wynn to assist in his lobbying
4 efforts.

5 What is Mr. Broidy's background or history? Felony
6 conviction for bribery that was later lowered to a misdemeanor
7 for cooperation. He is also the individual that utilized
8 Michael Cohen to pay off a pregnant Playboy Bunny that he
9 impregnated. Punishment: He pled to one count of felony
10 conspiracy to commit a FARA violation and then he was later
11 pardoned by the president. No fine, no sentencing.

12 Steve Wynn, he spoke with President Trump and the
13 national security advisor along with the team about returning a
14 Chinese fugitive to China after a conversation with -- excuse
15 me -- with a senior Chinese government official. History: He
16 had numerous business interests and permits pending for casino
17 operation in Macau controlled by the Chinese government worth
18 billions. He is currently facing multiple sexual harassment
19 lawsuits, forced to resign from his own company after those
20 allegations. Criminal case in those situations, pending, or
21 civil case. Punishment: Guarantee of no criminal prosecution
22 prior to speaking to DOJ, only enforced a civil FARA action,
23 and they did so, simply requesting him to back register for his
24 work. And then the case was dismissed when a court held that
25 the DOJ cannot ask a person to back register. No fine, no

1 criminal prosecution.

2 Numerous -- 18 other numerous individuals, lawyers,
3 consultants, lobbyists, attorneys that were paid for their work
4 on behalf of Jho Low, paid by the same individual that paid
5 Ms. Davis, Michel, and Broidy. Punishment: All of them back
6 registered on October 31, 2018, including a woman who later
7 went to work for DOJ.

8 Nickie Davis never spoke to a government -- U.S.
9 government official, never had Jho Low's phone number, only
10 relayed messages back and forth between Michel and Broidy, no
11 prior record, pled to a single count of aiding and abetting
12 Broidy's FARA violations, a new charge that had never been used
13 before, no sentencing federal guidelines. Government now
14 seeking 30 months -- or 24 to 30 months as well as failing to
15 acknowledge the government while doing so -- failing to
16 acknowledge the cooperation, and the cooperation got other
17 indictments, got other pleas, and other individuals brought
18 before the system that profited by this entire process.

19 What we have here is a situation where we have a woman
20 who basically should have thought twice about it, but got
21 caught up and got involved and collected money that is now
22 going back to the government.

23 We have an individual that literally provided that
24 cooperation. That cooperation basically ended up getting
25 people -- like I indicated -- getting people indicted, getting

1 charged, and additional witnesses being brought forth. The
2 government now says that she's no use to them whatsoever, but
3 Mr. Broidy's still available, even though he's been pardoned,
4 because he has the ability to testify and verify those same
5 things that Ms. Davis told this Court.

6 We would ask that this Court literally go with the
7 presentence guideline or the recommendation of three months.
8 We recommend that that is appropriate given the circumstance.

9 We would like to self-surrender given her history of
10 appearing every which way possible and self-report to Dublin
11 facility.

12 If I may just have a moment, Your Honor.

13 I apologize if I did not ask for probation. We believe
14 that this has impacted Ms. Lum Davis significantly. We believe
15 that probation would be appropriate with all of the usual
16 requirements for probation. However, if the Court's inclined,
17 do not sentence Ms. Lum Davis to 24 to 30 months. It is not
18 appropriate given the facts of this case, given the nature of
19 this case, and all of the other parties that were involved.

20 Thank you, Your Honor.

21 THE COURT: All right. Thank you.

22 Ms. Lum Davis, do you wish to say anything on your
23 behalf? You do have the right. If you don't, it won't be held
24 against you, but certainly this is your time, if you wish to.

25 THE DEFENDANT: Well, Your Honor, thank you for the

1 opportunity to present a letter to you, which I did before
2 sentencing, and I think that had all the things I wanted to
3 say.

4 If you would like me to respond to any of the numerous
5 text messages that Mr. Keller went through, because I think we
6 all know that text messages can be taken out of context, then I
7 welcome -- I am open to be able to answer all of your
8 questions.

9 I'm totally going off script here, but when I didn't do
10 that before, I got into a lot of trouble. So I'm just going to
11 answer any questions you have of me because, I mean, I never
12 had the government connections. I never spoke to anybody. But
13 when they went through these text messages, it sounded like
14 they were grouping me together with the efforts that Elliott
15 Broidy did, but I never spoke to any -- I was communicating,
16 "Hey, Pras is asking me did you get the meeting set up? What's
17 going on?"

18 I was the middle person who knew Elliott Broidy and Pras,
19 so Pras was giving me pressure, I'm putting the pressure back
20 on Elliott Broidy 'cause he's the one who was very well
21 connected. As Mr. Keller eloquently said, he was, you know,
22 this big Republican donor; he said he could get in touch with
23 Trump, he could talk to all these people, so that was
24 definitely what he was banking on, you know.

25 And I know my attorneys are -- probably want to kill me,

1 but I felt like if you want to ask me, I'm here.

2 THE COURT: Well, I'm just going to ask you where
3 your letter is 'cause I've never seen it.

4 THE DEFENDANT: Oh --

5 THE COURT: Yeah. I got Mr. McCorriston's letter.
6 I've got various letters in support, that's Exhibit B. But if
7 you did submit a letter I never received it which is why I
8 indicated you didn't have any indication of remorse.

9 Did the government ever receive a copy of it?

10 MR. KELLER: We did, Your Honor. I believe it was
11 attached as exhibit perhaps in the response to the government's
12 sentencing memorandum?

13 MR. MCCORRISTON: Your Honor --

14 THE COURT: Yes.

15 MR. MCCORRISTON: -- the letter was attached to the
16 reply as Exhibit A.

17 THE COURT: I have Defendant's Response,
18 but -- okay. I see it at the end, yeah. Okay.

19 Well, I'm going to take a look at it now.

20 I got to say if you're going to put your client's letter
21 to the Court, it's very curious to me that you give me a
22 billion people's letters and you don't give me hers until you
23 respond to the government's sentencing position.

24 But, you know -- and I did read your response with regard
25 to all of that.

1 MR. MCCORRISTON: It was attached to the response,
2 Your Honor.

3 THE COURT: I know. But if you're going to submit a
4 letter on behalf of your client, that should be the first thing
5 that's filed, not the last.

6 MR. MCCORRISTON: Your Honor, it was referred to in
7 her response as well.

8 THE COURT: Right, I read the response.
9 And I have it, yeah.

10 THE COURTROOM MANAGER: Oh, you do?

11 THE COURT: Yeah. Okay. Which I did read it -- I
12 guess that's where I got my impression the lack of remorse and
13 responsibility. I don't see that letter taking responsibility.

14 But at any rate, is there anything else that you want to
15 say on your behalf?

16 THE DEFENDANT: No. Thank you very much, Your
17 Honor.

18 THE COURT: All right. Thank you.

19 All right. The court's going to state the sentence and
20 the reasons for the sentence, and then I'll ask each of the
21 attorneys if they have any legal objections before I impose the
22 sentence.

23 Please stand, Ms. Lum Davis.

24 Based on the mitigating and aggravating factors that the
25 court has previously stated, you are committed to the custody

1 of the Bureau of Prisons for a term of 24 months;

2 Supervised release of three years;

3 A fine of \$250,000;

4 Restitution's not applicable because the forfeiture;

5 Special assessment of \$100 for each count for a total of

6 \$100.

7 The conditions of your supervised release are as follows:

8 You must abide by the mandatory and standard conditions

9 of supervision, including the following conditions:

10 Since you do not have a recent history of substance abuse

11 and the offense is not drug related, the court waives the

12 mandatory drug testing condition.

13 You must cooperate in the collection of DNA as directed

14 by probation.

15 You must report to the probation office in the federal

16 judicial district where you are authorized to reside within

17 72 hours of the time you are released, unless the probation

18 officer instructs you to report to a different probation office

19 or within a different time frame.

20 You must abide by the following Special Conditions:

21 The fine of \$250,000 is due. Any unpaid balance must be

22 paid during the period of supervision in monthly installments

23 of \$10,000 or 25 percent of your gross monthly income,

24 whichever is greater, commencing 30 days after the start of

25 supervision. The court may order this requirement to be

1 changed from time to time as your circumstances warrant, but no
2 court order shall be required for your voluntarily agreement to
3 pay more than the court-ordered amount. Interest is waived
4 while you are serving any term of imprisonment -- actually, I'm
5 not going to impose interest, so it's waived. And payments
6 must be made by payroll deduction when applicable.

7 You must notify the probation officer of any change in
8 your financial circumstances that affect your ability to pay.
9 Your financial circumstances must be reviewed by the probation
10 officer on at least an annual basis.

11 You must provide the probation officer access to any
12 requested financial information and authorize the release of
13 any financial information. The probation office may share
14 financial information with the U.S. Attorney's Office.

15 You must apply all moneys received from any income tax
16 refunds, lottery winnings, inheritance, judgments, and any
17 anticipated or unexpected financial gains to the outstanding
18 court-ordered financial obligation at the discretion and
19 direction of the court.

20 You must not incur new credit card charges -- credit
21 charges, or open additional lines of credit, or apply for any
22 loans without prior approval of probation. You must not borrow
23 money or take personal loans from any individual without prior
24 approval of probation.

25 You must maintain a single personal bank account,

1 separate and apart from your spouse, any family members or
2 others, into which all income, financial proceeds, and gains
3 must be deposited and from which all expenses must be paid.

4 You must provide the probation officer with a signed
5 release authorizing credit checks and accurate financial
6 statement with the support -- with supporting documentation as
7 to all sources and amounts of income, all your expenses, and
8 any business you own, in whole or in part.

9 You must provide the probation officer with access to any
10 and all business records, financial records, client lists, and
11 other records, pertaining to the operation of any business you
12 own, in whole or in part, as directed by probation.

13 If you are self-employed, you must employ a bookkeeper
14 and/or accountant to manage your business records as to income
15 and expenses and profits and losses on a regular basis at the
16 discretion and direction of probation.

17 You must disassociate yourself from and not have any
18 contact with Low Taek Jho, aka Jho Low, Pras Michel, Elliott
19 Broidy, Broidy's wife, RR, and George Higginbotham. Should
20 your family members work for any of these individuals or
21 companies owned in whole or in part by them, you must reside in
22 a residence separate and apart from those family members.

23 You must cooperate with the Internal Revenue Service and
24 State of Hawaii Department of Taxation and arrange for the
25 payment of delinquent taxes, interest and penalties, and the

1 timely filing of tax returns and/or corrected amended tax
2 returns.

3 Finally, you must submit your person, property, house,
4 residence, vehicle, papers, or office to a search conducted by
5 a United States Probation Officer. Failure to submit to a
6 search may be grounds for revocation of release. You must warn
7 any other occupants that the premises may be subject to
8 searches pursuant to this condition. The probation officer may
9 conduct a search under this condition only when reasonable
10 suspicion exists that you have violated a condition of
11 supervision and that the areas to be searched contains evidence
12 of this violation. Any search must be conducted at a
13 reasonable time and in a reasonable manner.

14 For the basis of the aggravating factors, the court
15 reviewed your personal characteristics, so forth, as it stated,
16 and in light of the mitigating factors, court found that
17 there's no guidelines. But in the court's mind, because of the
18 crime that was -- that you've been convicted of, because of the
19 factors the court stated, the range was between 18 and
20 24 months was a sufficient sentence that's not greater than
21 what's necessary to meet the goals of sentencing, and based on
22 the aggravating factors it merited at 24-month period of
23 incarceration.

24 Before I impose the sentence as stated, any legal
25 objections by the government?

1 MR. KELLER: No, Your Honor.

2 THE COURT: By the defense?

3 MR. MINKIN: None, Your Honor.

4 THE COURT: All right.

5 MR. MCCORRISTON: Did you want to state --

6 THE COURT: Yeah, I'm going to address that in a
7 minute, Mr. McCorriston.

8 So the sentence is imposed as stated. The court has
9 considered the advisory guideline computations, which weren't
10 any actually, and the sentencing factors under 18 U.S.C.,
11 Section 3553(a).

12 As I explain more fully in my assessment of the specific
13 aggravating and mitigating factors in this case, I have
14 considered Ms. Lum Davis's history and characteristics as well
15 as the serious harm to our community caused by her offense.

16 I paid special attention to the plea agreement.

17 I've read the letters received on her behalf, and I
18 believe the sentence provides just punishment and serves as
19 adequate deterrence to others.

20 I've considered the sentencing guidelines and the policy
21 statements and the law.

22 All right. You did plead guilty pursuant to a plea
23 agreement. In that agreement, Ms. Lum Davis, you did waive or
24 give up certain appeal rights. If, however, you feel that you
25 have a basis to file a notice of appeal, there is a deadline to

1 do so, and that's within 14 days after your judgment is filed,
2 and that should be filed sometime this week.

3 If you file after the 14 days, you could be found to be
4 too late and to given up or waived your right to appeal.

5 Do you understand this?

6 THE DEFENDANT: Okay.

7 THE COURT: All right. So I don't think there's any
8 objection to self-surrender; is that correct?

9 MR. KELLER: Correct, Your Honor.

10 THE COURT: She has no criminal record; she's been
11 compliant with pretrial release, so I think that's appropriate.

12 MR. KELLER: Correct. Agreed, Your Honor.

13 THE COURT: So she will self-surrender. We'll give
14 you a date, that's depending on the designation by the Bureau
15 of Prisons, and I can make any recommendations, if you wish me
16 to.

17 MR. MINKIN: And we do, Your Honor. We would like
18 that recommendation to Dublin, California.

19 THE COURT: Because of the proximity to family?
20 Mr. Minkin?

21 MR. MINKIN: Excuse me?

22 THE COURT: You want me to recommend that, so I will
23 tell the Bureau of Prisons because of proximity to family?

24 MR. MINKIN: Yes.

25 THE COURT: Okay.

1 MR. MINKIN: And unless the Court would be willing
2 to do community -- do home confinement under the auspices of
3 probation?

4 THE COURT: No.

5 Okay. Did you have something that I needed to address,
6 Ms. Ing-Dodson?

7 THE PROBATION OFFICER: No, Your Honor.

8 THE COURT: All right. Thank you.

9 Okay. I'm sorry?

10 THE COURTROOM MANAGER: The date?

11 THE COURT: Yeah, if you would give us the date for
12 self-surrender.

13 THE COURTROOM MANAGER: Your Honor, it will be
14 Friday, March 10th, 2023, to the facility designated by Bureau
15 of Prisons.

16 THE COURT: Yeah, that would be by noon to the
17 facility designated by Bureau of Prisons. Is that sufficient
18 time?

19 MR. MINKIN: I was writing and I missed the date.

20 THE COURT: I'm sorry. March 10th by noon to the
21 facility designated by the Bureau of Prisons, and so I was
22 asking is that sufficient time since she'll be
23 self-surrendering at her -- traveling at her own expense.

24 MR. MINKIN: Would it be possible to allow an
25 additional 30 days or so so that things could be set up for the

1 daughter in California?

2 THE COURT: Yeah, that's fine. So you want -- that
3 would take us, Ms. Elkington, to April?

4 THE COURTROOM MANAGER: April 14th.

5 THE COURT: April 14th? All right. So April 14,
6 2023, by 12 noon to the designated facility. You do have to
7 appear by that time. And if for some reason you don't, a bench
8 warrant will issue for your arrest. So make sure that you
9 self-surrender at that time.

10 I assume she's going to travel at her own expense, not at
11 the marshals'?

12 MR. MINKIN: Yes, that's correct.

13 THE COURT: All right.

14 MR. MINKIN: And though the Bureau of Prisons will
15 make the final determination, did I understand the Court that
16 Court will at least attempt a recommendation at Dublin?

17 THE COURT: Yeah. I'm going to include that in the
18 judgment that the court recommends placement at BOP facility in
19 Dublin, California, because of proximity to family.

20 MR. MINKIN: Thank you.

21 THE COURT: All right. The court will review the
22 forfeiture order. The forfeiture order will be signed and then
23 attached as part of the judgment in this case.

24 All right. Anything else on behalf of the government?

25 MR. KELLER: No, Your Honor.

1 THE COURT: Mr. Minkin, anything on behalf of
2 Ms. Lum Davis?

3 MR. MINKIN: Nothing.

4 THE COURT: Ms. Ing-Dodson, anything else the court
5 needs to address?

6 THE PROBATION OFFICER: No, Your Honor.

7 THE COURT: All right. Very good. Then we stand in
8 recess. Good day, everyone.

9 (Proceedings concluded at 2:41 P.M.)

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COURT REPORTER'S CERTIFICATE

I, DEBRA READ, Official Court Reporter, United States District Court, District of Hawaii, do hereby certify that pursuant to 28 U.S.C. §753 the foregoing is a complete, true, and correct transcript of the stenographically reported proceedings held in the above-entitled matter and that the transcript page format is in conformance with the regulations of the Judicial Conference of the United States.

DATED at Honolulu, Hawaii, January 23, 2023.

/s/ Debra Read
DEBRA READ, CSR CRR RMR RDR